

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MICHAEL J. BEILMAN,

Plaintiff,

07-CV-0412C

-v-

NIAGARA FRONTIER TRANSPORTATION
AUTHORITY,

Defendant.

This case was referred to Magistrate Judge Hugh B. Scott pursuant to 28 U.S.C. § 636(b)(1) for all pretrial matters including consideration of dispositive motions. Plaintiff filed a motion for summary judgment on April 17, 2009 (Item 36), and defendant filed a cross motion for summary judgment on May 19, 2009 (Item 39). On September 18, 2009, Magistrate Judge Scott filed a Report and Recommendation, recommending that plaintiff's motion be denied and defendant's motion be granted (Item 55). Plaintiff, appearing *pro se*, filed a response to the Report and Recommendation, and defendant filed a response thereto. The court determined that oral argument regarding plaintiff's objections was not necessary.

Pursuant to 28 U.S.C. § 636(b)(1), this court must make a *de novo* determination of those portions of the Report and Recommendation to which objections have been made. Upon review of the Report and Recommendation and the submissions of the parties, the court adopts the proposed findings of the Report and Recommendation. Plaintiff failed to establish that his age was the reason for his termination, or that defendant failed to promote him in retaliation for his filing a claim of age discrimination. Additionally, plaintiff's

allegations of criminal activity at the Buffalo Niagara International Airport are unrelated to his age discrimination claims. Accordingly, for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, defendant's motion is granted and plaintiff's motion is denied. The Clerk of Court is directed to enter judgment in favor of the defendant.

SO ORDERED.

_____\s\ John T. Curtin_____
JOHN T. CURTIN
United States District Judge

DATED: 10/30 , 2009
p:\pending\2007\07-412.oct2909